
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Robert C. Yen

Attorney Docket No.: 1801-P001

Application No.: 09/578,816

Examiner: Shingles, Kristie D.

Filed: May 24, 2000

Group: 2141

Title: Method and System for Reduction of
Delay of Bandwidth Requirements in Internet
Data Transfer

Confirmation No.: 5969

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement dated March 5, 2007, Applicant hereby elects, with traverse, Group II, Claims 5, 11, 12, 15, 17-26 and 28, to prosecute in the above-identified patent application.

Applicant requests reconsideration of the Restriction Requirement for the reasons noted below, namely, because (a) the restriction is unreasonable tardy, and (b) there is no undue burden on the Examiner to continue to examine all claims in a single application.

While there are differences between the claims of group I and group II as noted by the Examiner, it is unfair to Applicant to restrict the claims after years of prosecution. Although it is recognized that there is a new Examiner now working on this case, Applicant should not have to bear the expense necessitated by a change in examiners. The most pertinent section of the MPEP is section 811 regarding time for making restrictions. Specifically, this section states: "[T]he examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops." Moreover, the sections goes on to state: "Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required."

It is submitted that this late stage restriction cannot be deemed to have been performed "as early as possible." Nor can it be reasonably said that further examination of all claims would be a serious burden when the Patent Office has already issued several Office Actions, including a final Office Action (December 18, 2003) on the restricted claims.

Therefore, it is respectfully requested that the Restriction Requirement be withdrawn. It is believed that no fees are due in connection with the filing of this response.

Respectfully submitted,

/C. Douglass Thomas/

C. Douglass Thomas
Registration No. 32,947

Technology & Innovation Law Group, PC
19200 Stevens Creek Blvd, Suite 240
Cupertino, CA 95014
408-252-9991